

CERTIFIED FOR PARTIAL PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

ALEX ABASSI et al.,

Cross-Complainants,
Cross-Defendants and Appellants,

v.

DALE A. WELKE,

Cross-Defendant and Respondent.

B161964

(Los Angeles County
Super. Ct. No. BC174420)

ORDER MODIFYING OPINION
[No Change in Judgment]

THE COURT:

Good cause appearing, the opinion in the above entitled matter, filed on May 25, 2004, Certified for Partial Publication, is hereby modified as follows:

On page 6, the second sentence of the last paragraph is modified to read as follows:

Judge Kuhl ruled, in part: (1) the trial court had the discretion to consider successive motions that offered different or additional facts and judicial economy strongly favored permitting the trial court to hear this second motion if it would resolve the case short of a lengthy trial; and (2) appellants were beneficiaries of the trust created by the PIT/PICC interindemnity arrangement, and appellants only had standing to bring an action against Welke based on active participation by him in the PIT/PICC trustees' breach of duty.

There is no change in the judgment.